

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 6529 of 2010 (O&M)
Date of decision : 05.09.2017

Dalbir Singh

...Appellant

versus

Avtar Singh and others

...Respondent

CORAM : HON'BLE MR. JUSTICE RAJIV NARAIN RAINA.

Present : None for the appellant.

Mr. R.K. Saini, Advocate
for respondent Nos. 1 & 2.

Ms. Sonam Gupta, Advocate for
Mr. V.M. Gupta, Advocate
for respondent No.3.

RAJIV NARAIN RAINA, J. (ORAL)

Having regard to the content of the application for condoning the delay of 1266 days in filing the appeal and the limited notice issued in the appeal for a decision on the application filed under Section 5 of the Limitation Act, 1963 and having regard to the reply filed to the application, I find hardly any reason to condone the delay. The reasons assigned in the application in paragraphs 2 to 6 are reproduced as under :

2. That the above mentioned appeal was filed before this Hon'ble Court on 07.03.2007 but the same was returned on 21.03.2007 wherein it transpired that the ground of appeal has not been signed by the counsel due to inadvertence.

3. that the above mentioned appeal was again filed on 05.12.2008 but the same was again returned since the appeal was filed with a refiling application for condonation of delay but the registry again returned the same since then it transpired that an application for condonation of delay in filing has to be filed and not an application for condonation of delay in re-filing has to be filed.

4. That the counsel handed over the appeal to his clerk after complying with the objections raised by the Registry by the clerk again misplaced the appeal.

5. That it was only on 01.08.2010 the appeal was found when the clerk was searching admitted briefs.

6. That the delay in filing the appeal is due to the above mentioned reasons and delay of 1266 days in filing the present appeal is not intentional rather it was beyond control of the appellant.

No dates have been incorporated in the application as to when the registry has returned the appeal and when the application for condonation in refiling the appeal. The stamps of the Registry disclose that the appeal was filed on 07.03.2007 then it was returned with objection then it was again on filed on 17.08.2010. The lackadaisical approach of the appellant does not justify any indulgence to be shown in pursuing the appeal. There is no explanation for the delay in filing

the time barred appeal which can be said to be bona fide delay.

The application filed under Section 5 of the Limitation Act, 1963 for condonation of delay in filing the appeal is dismissed and so is the appeal.

(RAJIV NARAIN RAINA)
JUDGE

September 5, 2017

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Whether speaking/reasoned : YES/NO

Whether reportable : YES/NO